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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,497	02/09/2001	Kazuya Nishino	1095.1158/JDH	5669
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STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER HAVAN, THU THAO	
			ART UNIT	PAPER NUMBER
			3691	
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			06/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/779,497

Applicant(s)

NISHINO, KAZUYA

Examiner

Thu Thao Havan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/19/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 4-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Response to Amendment

Claims 1-2 and 4-10 are pending. This action is in response to the RCE received March 19, 2007.

Response to Arguments

Applicant's arguments with respect to claims 1-2 and 4-10 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **1-2** and **4-10** are rejected under 35 U.S.C. 102(e) as being anticipated by Barritz et al. (US 6,029,145).

Re claim **1**, Barritz teaches an accounting method for imposing, by a server, a charge for using an application program installed on a client (col. 3, lines 14-29), the method comprising:

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setting a particular function of the application program installed on the client as a key function (col. 9, lines 9-29; col. 10, lines 6-17; fig. 7: element 571 discloses what function. He discloses particular product as the identifier which corresponds to the key function);

detecting performance of the key function of the application program as performance of the particular function (col. 4, lines 35-63; col. 3, lines 30-60);

specifying a type of the application program performing the particular function set as the key function (col. 2, lines 20-26; He discloses vendors to have access to ongoing information as to "how", where, to what extent, and by whom their software is being used);

a user for using the key function of the application program (col. 7, lines 1-10); and

imposing charges on the registered user according to a frequency of detecting performance of the key function of the application program and the type of the application program (col. 13, line 63 to col. 14, line 35; col. 14, lines 52-61). Barritz discloses the necessity for vendors to have access to ongoing information as to *how, where, to what extent, and by whom their software is being used*. He provides "authorization codes" to users that tell the licensed software product, during its operation, the applicable limits. His system prepares and transmits to the discrete computer site software usage billings by having the central computer calculates the amount of royalties owed for the use of software products at the discrete computer sites. Thus, software facility controls disbursements to the vendors of monies received on account of the discrete computer sites.

Re claim 2, Barritz teaches predetermined function set as the key function is to output data from the client to an external device (fig. 1).

Re claim 4, Barritz teaches wherein the registering the user for the application program is performed upon detecting the performance of the key function by the user for a first time (col. 2, lines 28-36). Barritz discloses registered user.

Re claim 5, Barritz teaches wherein the setting the particular function of the application program comprises setting an imposed charges key function, the method further comprising informing the registered user of amount of charges imposed at a time of detecting performance of the imposed charges key function by the register user (fig. 7). In figure 7, Barritz discloses billing collection by collecting usage amounts.

Re claim 7, Barritz teaches deducting automatically the charges imposed from an account being under the user's name (col. 3, lines 10-12).

Re claims 6 and 8-10, Barritz teaches the limitations as claimed in claim 1. Therefore the rationale applied in the rejection of claim 1 applies herein.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on flextime schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski in can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).


Thu Thao Havan
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6/3/2007